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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09 744,866	04/02/2001	Frank Austrup	790076.403US	5636

7590 08/07/2002

Seed  
701 Fifth Avenue Suite 6300  
Seattle, WA 98104-7092

EXAMINER

RAWLINGS, STEPHEN L

ART UNIT	PAPER NUMBER
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1642

DATE MAILED: 08/07/2002

8

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/744,866

Applicant(s)

AUSTRUP ET AL.

Examiner

Stephen L. Rawlings, Ph.D.

Art Unit

1642

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 11 July 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-21 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: *Election facsimile cover sheet*.

**DETAILED ACTION**

1. The amendment filed July 11, 2002 in Paper No. 6 is acknowledged and has been entered.
2. Claims 1-21 are pending in the application and are currently subject to restriction and an election requirement.

***Election/Restrictions***

3. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-7 and 10, drawn to a method for isolating cells.

Group II, claim(s) 8, drawn to a method for eliminating cells.

Group III, claim(s) 9, drawn to a method for characterizing cells.

Group IV, claim(s) 11-13 and 21, drawn to a cell mixture and a pharmaceutical composition comprising said cell mixture.

Group V, claim(s) 15, drawn to a method for isolating cell components.

Group VI, claim(s) 16, drawn to a method for establishing cell lines.

Group VII, claim(s) 17, insofar as the claim is drawn to a method for diagnosing a disease or condition.

Group VIII, claim(s) 17, insofar as the claim is drawn to a method for treating an animal.

Group IX, claim(s) 17 and 18, insofar as the claims are drawn to a method for identifying therapeutic targets.

Group X, claim(s) 17 and 19, insofar as the claims are drawn to a method for screening active substances.

Group XI, claim(s) 17 and 20, insofar as the claims are drawn to a method for choosing an individual therapy.

**Note:** Claim 14 was not included in any group because the claim is improper since a multiple dependent claim cannot depend from any other multiple dependent claim. See MPEP § 608.01(n).

4. The inventions listed as Groups I-XI do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

The special technical feature of group I is isolating disseminated tumor cells.

The special technical feature of group II is eliminating disseminated tumor cells.

The special technical feature of group III is characterizing disseminated tumor cells.

The special technical feature of group IV is producing a cell mixture.

The special technical feature of group V is isolating components of disseminated tumor cells.

The special technical feature of group VI is establishing cell lines.

The special technical feature of group VII is diagnosing a disease or condition.

The special technical feature of group VIII is treating an animal.

The special technical feature of group IX is identifying therapeutic targets.

The special technical feature of group X is screening active substances.

The special technical feature of group XI is choosing an individual therapy.

Accordingly, groups I-XI do not have the same or corresponding special technical feature so as to form a single general inventive concept.

5. Applicants are advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

6. Applicants are reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen L. Rawlings, Ph.D. whose telephone number is

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(703) 305-3008. The examiner can normally be reached on Monday-Thursday, alternate Fridays, 8:00AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony C. Caputa, Ph.D. can be reached on (703) 308-3995. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-4242 for regular communications and (703) 308-4242 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

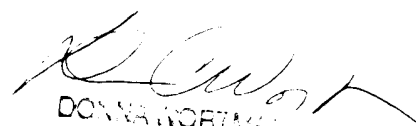
Stephen L. Rawlings, Ph.D.

Examiner

Art Unit 1642

slr

August 6, 2002

  
DONNA NORTH  
PRIMARY EXAMINER



# RESTRICTION ELECTION FACSIMILE TRANSMISSION

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